



Entered on Docket
July 20, 2007

A handwritten signature in black ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for Kreg Rowe, et. al.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re
USA COMMERCIAL MORTGAGE
COMPANY,
USA CAPITAL REALTY
ADVISORS, LLC,
USA CAPITAL DIVERSIFIED
TRUST DEED FUND LLC,
USA CAPITAL FIRST TRUST
DEED FUND LLC,
USA SECURITIES, LLC,
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

(Jointly Administered Under
Case No. BK-S-06-10725-LBR)

STIPULATION AND ORDER RESOLVING
DISCOVERY DISPUTES AMONG
DEBTORS, THEIR SUCCESSORS IN
INTEREST AND THE TANAMERA PARTIES

Affects:

- ☒ All Debtors
- : USA Commercial Mortgage Company
- : USA Capital Realty Advisors, LLC
- : USA Capital Diversified Trust Deed Fund, LLC
- : USA Capital First Trust Deed Fund, LLC
- : USA Securities, LLC

1 The USACM Liquidating Trust ("The Trust") and Kreg Rowe, Brett Seabert,
2 B & L Investments, Inc. Cabernet Highlands, LLC, Caughlin Club Management
3 Partners, LLC, Caughlin Club Real Property Investors, LLC, CCRE Investors
4 LLC, Chardonnay Village Investors, LLC, Classic Residences, LLC, Comstock
5 Village Investors, LLC, DDH Financial Corp., Diamond Village Investors 11, LLC,
6 Diamond Village Investors 1 & 12, LLC, Double Diamond Homes, LLC, Double
7 Diamond Management Company, LLC, Emigh Investments, LLC, Equus
8 Management Group, Inc., Foothill Commerce Center, LLC, Homewood Village
9 Investors I, LLC, La Hacienda Land Investors, Inc., Longley Town Centre, LLC,
10 Longley Professional Campus, LLC, The Meadows Investors, LLC, Miners Village
11 Investors, LLC, Monticello Investors, LLC, Mountainview Campus Investors, LLC,
12 MP Tanamera, LLC, Pioneer Village Investors, LLC, Preserve at Galleria, LLC,
13 Reno Corporate Center, LLC, Reno Design Center, LLC, Rowe Family Trust,
14 RTTC Communications, LLC, Sandhill Business Campus, LLC, Sierra Vista
15 Investors, LLC, South Meadows Commercial Property, LLC, South Meadows
16 Office Investors, LLC, Sparks Galleria Investors, LLC, Sparks Galleria Investors
17 II, LLC, Tanamera Commercial Development, LLC, Tanamera Corporate Center,
18 LLC, Tanamera Development, LLC, Tanamera Homes, LLC, Tanamera Resort
19 Condominiums, LLC, Tanamera Resort Partners, LLC, TCD Financial Corp, TCD,
20 Land Investments, LLC, Vineyard Highlands, LLC, The Vineyard Investors, LLC.
21 Vineyard Professional Campus, LLC, Waterford Partners, LLC, Wyndgate
22 Partners, II, LLC, Wyndgate Village Investors, LLC, Michael Efstratis, Kraig
23 Knudsen and Joe Lopez (collectively, the "Tanamera Parties") file this
24 Stipulation and Order resolving all discovery disputes between the Trust and the
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1 Tanamera Parties including, without limitation disputes regarding: (1) the
2 Tanamera Parties' Motion to Quash subpoenas directed to Wells Fargo Bank,
3 N.A., Wells Fargo Bank of Nevada, Nevada State Bank, JP Morgan, Bank of the
4 West, Oppenheimer Funds, and Bank of America ("the Banks") insofar as these
5 Subpoenas seek documents and records of the Tanamera Parties maintained at
6 these Banks; (2) the Supplemental Motion to Quash subpoenas served upon
7 Brett Seabert and Kreg Rowe individually and (3) disputes regarding the
8 subpoenas served upon DDH Financial Corp. and B&L Investments, Inc. (the
9 "Trusts' Subpoenas") .
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11 1. To the extent they request documents from or concerning the
12 Tanamera Parties, the Trust's Subpoenas are WITHDRAWN, except as
13 specifically set forth below.
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15 2. The Tanamera Parties' Motion to Quash and Supplemental Motion
16 to Quash are hereby WITHDRAWN.

17 3. The Tanamera Parties agree to provide, on or before July 10, 2007,
18 copies of the following documents to the extent the documents are within the
19 Tanamera Parties' custody and control:

- 20 a. A list of all Tanamera Parties who obtained loans from USACM, USA
21 Capital Diversified Trust Deed Fund, LLC, USA Capital First Trust
22 Deed Fund, LLC, or USA Investment Partners, LLC;
23 b. Loan documents and payment records, including cancelled checks
24 and general ledger postings reflecting interest payments from
25 disbursement control accounts and principal and interest payments
26 paid at closings of real estate sales, for all loans described in the
27 preceding paragraph.
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1 c. Written correspondence, including emails, between any of the
2 Tanamera Parties and Mr. Hantges, Mr. Milanowski, or Ms. Loob
3 (Hessling) from June 15, 2003 to the present.

4 4. Should the Trust desire to obtain additional source documents such
5 as escrow closing statements and interest and loan fee billings maintained with
6 the accounts payable records or otherwise, the Trust shall supply the personnel
7 to sort through the Tanamera Parties records and shall reimburse the Tanamera
8 Parties for the actual cost of such personnel assigned to accompany the Trust
9 Parties during such review;

10 5. The Tanamera Parties agree that the Trust may obtain and use
11 documents from the Banks covered by the Bank Subpoenas relating to
12 Tanamera Development LLC, Tanamera Homes LLC and Reno Design Center.

13 6. The Trust agrees to pay to the Tanamera Parties, within ten days
14 following approval of this Stipulation, the total sum of Three Thousand Dollars
15 (\$3,000.00) for search, copy and delivery charges. The Trust agrees to
16 reimburse the Tanamera Parties for any Bank charges to the Tanamera Parties
17 as a result of the Bank Subpoenas.

18 7. The Trust agrees that the foregoing stipulation shall fully satisfy any
19 Rule 2004 request for documents from the Trust. At this time, the Trust is
20 postponing its request for a Rule 2004 examination of the Tanamera Parties. All
21 parties to this Stipulation preserve their rights to request and/or object to
22 discovery requests outside of the context of Rule 2004 examinations and
23 document requests filed in the present bankruptcy case.

24 8. If the Trust determines that a Rule 2004 examination is necessary,
25 the Tanamera Parties shall produce Brett Seabert and Kreg Rowe as their
26 designated representatives and Custodian of Records for one Rule 2004
27 examination each upon reasonable notice (which shall be not less than ten
28 days). Any examination of the Tanamera Parties shall take place at the offices of

1 McDonald Carano Wilson LLP in Reno, Nevada or at a place that is mutually
2 agreeable. Any 2004 Examination of the Tanamera Parties by the Trust shall be
3 coordinated with and conducted as part of the examination planned by the
4 Trustee for USA Investment Partners, LLC.

5 DATED: July 5, 2007

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7 MCDONALD CARANO WILSON, LLP DIAMOND MCCARTHY LLP

8 <u>/s/ Kaaran E. Thomas</u>	8 <u>/s/ Eric Madden</u>
9 By: Kaaran E. Thomas	9 By: Eric Madden
10 Attorneys for Tanamera Parties	10 Attorneys for Movants

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